

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

BEFORE THE ADMINISTRATOR  
SOUTH CAROLINA DEPARTMENT  
OF CONSUMER AFFAIRS

DOCKET NO. 0124

THE SOUTH CAROLINA )  
DEPARTMENT OF CONSUMER )  
AFFAIRS, )  
 )  
PETITIONER, )  
 )  
vs. )  
 )  
TRIANGLE CITY PAWN OFFICE, INC., )  
F/K/A TRI-CITY LOAN OFFICE & )  
HUGH BRUCE FLOYD, )  
INDIVIDUALLY, )  
 )  
RESPONDENT. )  
\_\_\_\_\_ )

**ORDER**

This case began with the Petitioner's Notice of Hearing and Petition for the Respondent to show cause why Respondent's Special Deposit Bond # 68272146 issued by Western Surety Company and made payable to the Administrator of the Department of Consumer Affairs should not be assessed to compensate those members of the public who may have a cause of action against Respondents for violations of the South Carolina Pawnbroker Act, *S.C. Code Ann. § 40-39-10 et seq.* (Supp. 2000).

The hearing was held on September 25, 2001, at Landmark I, 3600 Forest Drive, 3<sup>rd</sup> Floor, Columbia, South Carolina. The Petitioner was represented by its attorney Helen Fennell. The Respondents did not appear at the hearing.

**STATEMENT OF THE CASE**

Respondent Triangle City Pawn Office is currently an unlicensed pawnbroker. An Order in *SCDCA vs. Triangle City Pawn Office*, Docket #0119 was entered on September 17, 2001, requiring Respondent to Cease and Desist operating as a pawnbroker (Exhibit #3). This Order was issued as a result of Respondents's failure to renew their pawnbroker Certificate of Authority or to maintain or remit a current bond. Respondents's bond, made to the benefit of the Department, lapsed on April 24, 2001 (Exhibit #2 and Order in Docket #0119).

At the hearing Petitioner elicited testimony from its investigator Barbara Morris. Ms. Morris stated that as a result of the hearing on September 12, 2001, she visited the Respondent at its West Columbia location on September 13, 2001 (Exhibit # 3). There she conducted a compliance review in the presence of a female employee Sheree McCray. Mr Hugh Bruce Floyd the owner of Triangle City Pawn was not present.

Ms. Morris found numerous violations of the Pawnbroker statute and regulations during the review, including failure to maintain redeemed tickets, failure to enter telephone numbers and serial numbers on tickets, failure to maintain numerical tickets, incorrect pawn and due dates entered on tickets and lost or missing tickets, among other things (Exhibit #4). Ms Morris stated that Ms. McCray did not seem concerned when told orally of the Cease and Desist Order in the September 12th hearing. There were customers present in the business and Ms. McCray appeared to be taking pawn even though on Ms. Morris's previous visit on August 17, 2001, Ms. McCray had been told not to take pawn. She again told Ms. McCray not to engage in pawnbrokering activities. She also asked Ms. McCray to have Mr. Floyd call her or Ms. Fennell. Ms Morris stated that Mr. Floyd never called anyone at the Department.

Petitioner then called Carl Owens, a complaint analyst with the Department, to testify. Mr. Owens stated that he was familiar with the Respondent Tri-angle City Pawn and had spoken with Respondent Hugh Bruce Floyd by phone on previous occasions. He indicated that Tri-Angle City Pawn Office had one open complaint lodged with the Department on April 2, 2001. This complaint involved an allegation that Respondents had failed to return a pawned item when the consumer attempted redemption (Exhibit #5).

Mr. Owens further stated that Respondents failed to answer this complaint either orally or in writing when the complaint was sent to the business in early April. Respondents also failed to answer a subsequent letter sent on April 23, 2001 (Exhibit # 6). A third letter sent on May 8, 2001, also went unanswered (Exhibit # 7). Mr. Owens finally stated that to date Respondents had not responded in any manner to the complaint.

## **FINDINGS OF FACT**

Based on evidence presented by staff at the hearing, I make the following findings of fact:

- 1.) Respondents were personally served with the Notice of Hearing by Barbara Morris on August 17, 2001 (Exhibit #1).
- 2.) Respondents have not renewed or otherwise attempted to apply for their Pawnbroker Certificate of Authority (Exhibit #3, Order in Docket No. 0119).
- 3.) Respondents have continued to operate and engage in pawn transactions after notice that their Certificate of Authority has expired (Testimony of Barbara Morris).
- 4.) Respondents have continued to operate and engage in pawn transactions after notice that their Special Deposit Bond #68272146 issued by Western Surety Company and made payable to the Administrator of the Department of Consumer Affairs expired on April 24, 2001 (Testimony of Morris).
- 5.) Respondents have at least one outstanding open complaint with the Department which has not been answered or resolved by Respondents (Complaint No. 0101594 - Greg Favor, Exhibit # 5 & Testimony of Carl Owens).

## **CONCLUSIONS OF LAW**

Based on evidence presented by staff at the hearing, I make the following conclusions of law:

- 1.) The Department has jurisdiction over this matter pursuant to the South Carolina Pawnbrokers Act, *S.C. Code Ann.*, § 40-39-10, *et seq.* (Supp. 2000).
- 2.) Respondents were timely and properly served with the Notice of Hearing in this matter, pursuant to *S.C. Code Ann.* §1-23-320(a) (Supp. 2000) (Exhibit # 1).
- 3.) Respondents have continued to carry on the business of pawnbrokering without obtaining a Certificate of Authority, in violation of *S.C. Code Ann.* § 40-39-20 (Supp. 2000) (Testimony of Barbara Morris).
- 4.) Respondents have failed to maintain evidence of financial responsibility, in violation of *S.C. Code Ann.* §40-39-50 (Supp. 2000) (Exhibit #3, Order in Docket No. 0119).

5.) As the Administrator of the Department of Consumer Affairs I am required to receive and act on consumer complaints arising out of the production, promotion or sale of consumer goods and services, of which Complaint No. 0101594 of Greg Favor (Exhibit # 5) is one, pursuant to *S.C. Code Ann* § 37-6-117.

6.) Special Deposit Bond #68272146 issued by Western Surety Company and made payable to the Administrator of the Department of Consumer Affairs is for the use of the State as well as any borrowers who may have a cause of action against the pawnbroker (Exhibit # 2).

7.) Special Deposit Bond #68272146 issued by Western Surety Company and made payable to the Administrator of the Department of Consumer Affairs may be accessed to satisfy meritorious consumer complaints lodged against the Respondents for those pawn transactions occurring on or prior to April 24, 2001.

IT IS THEREFORE ORDERED, that:

- (1) Respondents's Special Deposit Bond #68272146 issued by Western Surety Company and made payable to the Administrator of the Department of Consumer Affairs be accessed to satisfy meritorious consumer complaints lodged against the Respondents for those pawn transactions occurring on or prior to April 24, 2001.
- (2) Petitioner will within thirty days of this Order place advertisements in the local newspaper(s) of Lexington and Richland County advising affected consumer pledgors that they may file a formal written complaint against Respondents and advising consumers of a time certain for a damages hearing after the public notice has been given.
- (3) Consumer complainants may submit verified affidavits of damages, or loss, acceptable to the Department in lieu of live testimony at the damages hearing.
- (4) Monies from Respondents's Special Deposit Bond #68272146 will be made available for consumer redress for a time period under the applicable statute of limitations.
- (5) Petitioner will serve copies of this Order on Western Surety Company, issuer of Special Deposit Bond #68272146.

IT IS FURTHER ORDERED that:

- (1) Upon service of this Order on Respondent, the Staff will also provide the West Columbia Police Department and Lexington County Sheriff's Department with copies of this Order; and
- (2) Staff is to place copies of this Order and the previous order in Docket No. 0119 on the

Departmental Web site.

IT IS SO ORDERED.

s/ Philip S. Porter  
Philip S. Porter, Administrator  
South Carolina Department of  
Consumer Affairs

October 2, 2001  
Columbia, South Carolina